

Decision 00-04-058 April 20, 2000

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

George M. Sawaya,

Complainant,

vs.

Pacific Bell and Sprint Communications
Company,

Defendants.

Case 99-04-037
(Filed April 16, 1999)

OPINION

Summary

Pacific Bell (Pacific) is ordered to bring into compliance with Pub. Util. Code § 2890 those of its operations discussed below. Pursuant to Pub. Util. Code § 2107, Pacific is ordered to pay a penalty of \$2,500 for five distinct violations of Pub. Util. Code § 2890.

Background

George Sawaya filed this complaint against Pacific and Sprint Communications Company (Sprint) on April 16, 1999. Sawaya alleges that Pacific violated Pub. Util. Code § 2890(b) by billing for and generating charges on Sawaya's January and February 1999 telephone bill that were unauthorized.¹

¹ The imposition of unauthorized charges on a consumer's telephone bill is sometimes referred to as "cramming."

Specifically, Sawaya complains about a charge identified as a Sprint "Presubscribed² Line Charge" on his January and February 1999 bills from Pacific. For the period in question, Sawaya never designated (or presubscribed to) Sprint as his long distance provider.

Sawaya also charges that Pacific was not in compliance with Pub. Util. Code § 2890(e)(2)(A) by failing to provide a clear and intelligible description of the service for which Sprint's presubscribed line charge was imposed. Further, Sawaya alleges that Pacific was not in compliance with Pub. Util. Code § 2890(e)(2)(B) by failing to provide the addresses of the billing telephone company and of the service provider for the purpose of presenting and resolving billing disputes. Sawaya complains that Pacific's monthly residential bills provide addresses only for mailing customers' payments to Pacific's payment centers. Pub. Util. Code § 2890(e) states that:

"(e) (1) A billing telephone company shall clearly identify, and use a separate billing section for, each person, corporation, or billing agent that generates a charge on a subscriber's telephone bill. A billing telephone company may not bill for a person, corporation, or billing agent, unless that person, corporation or billing agent complies with paragraph (2).

"(2) Any person, corporation, or billing agent that charges subscribers for products or services on a telephone bill, or on a bill for noncommunications-related goods and services that is included in the same envelope as a telephone bill, shall do all of the following:

² In D.95-05-020, the Commission defined presubscription "as a process which allows an end-user served by a central office to select an IXC to automatically provide interLATA or intraLATA communications."

“(A) Include, or cause to be included, in the bill the amount being charged for each product or service, including any taxes or surcharges, and a clear and concise description of the service, product, or other offering for which a charge has been imposed.

“(B) Include, or cause to be included, for each entity that charges for a product or service, information with regard to how to resolve any dispute about that charge, including the name, address and telephone number of the party responsible for generating the charge, and a description of the manner in which a dispute regarding the charge may be addressed, including the appropriate telephone number of the commission that a customer may use to register a complaint. ...”

A prehearing conference (PHC) was held on June 18, 1999. At the PHC Pacific admitted that Sawaya had been charged a presubscription line charge erroneously as alleged, but asserted that Sawaya had already received a refund for the erroneous charges. Further, Pacific described its efforts to determine the cause of the erroneous presubscription line charge. Pacific’s attorney stated:

“... we have gone to considerable investigation to try to determine whether or not ... this was a typical situation. And we have not found that this is a problem.

“As the billing agent, we have not found this situation to be a problem with other customers. ... And we did not find it to be a problem with any other Sprint customers or other customers that we have because we do get complaints in this area and people call us.”

* * *

“... this appears to have been an isolated incident, and that’s the extent of our ability to shed light.” (June 18, 1999, PHC Transcript. at p. 26.)

Additionally, Pacific admitted to not being in full technical compliance with Pub. Util. Code § 2890 since Sawaya’s January and February 1999 telephone bills did

not contain a mailing address for Sprint. Pacific proposed to modify its billing procedures to comply with Pub. Util. Code § 2890, and Pacific also offered, in consultation with Sawaya and Commission Staff, to submit to the Commission a stipulation stating the manner and date by which it would be in compliance with Pub. Util. Code § 2890. At the PHC, the parties also discussed the need for a hearing. The parties proposed resolving this case by stipulation of some issues and investigation by Commission staff of other issues. Sawaya indicated that because of his age (80 years), he believed that investigation by Commission Staff would be an efficient and adequate way to address his concerns about erroneous billing. Sawaya did not request an evidentiary hearing.

On June 25, 1999, Pacific served a statement in which it explained that: "Further investigation has now revealed that another system, the CESAR system, used to interface with interexchange carriers was not updated . . ." to reflect a change in long distance carriers made by Sawaya in late 1997. Further, Pacific stated that:

"Pacific Bell apparently improperly charged Sprint a PICC charge for Mr. Sawaya. ...Thus, thinking that Mr. Sawaya was presubscribed to Sprint, Sprint charged Mr. Sawaya a 'Presubscribed Line Charge' in January 1999. ...The CESAR system's record has now been corrected...." (Emphasis added.)

On July 21, 1999, pursuant to Rule 6.3 of the Rules of Practice and Procedure, Commissioner Henry Duque issued a scoping memo. The scoping memo confirmed the proceeding category as adjudicatory, designated Administrative Law Judge (ALJ) DeUlloa as the Presiding Officer, and established a procedural timetable. The scoping memo also identified as issues whether any other of Pacific's customers were erroneously charged

presubscription charges; and whether bills generated by Pacific are in compliance with Pub. Util. Code § 2890.

The scoping memo stated that Pacific's proposal to submit to the Commission a stipulation stating the manner and date by which it would be in compliance with Pub. Util. Code § 2890 was reasonable and directed Pacific to file and serve the proposed stipulation. The scoping memo also directed Pacific to file a "Customer Billing Report" addressing the erroneous billing issues raised by Sawaya. Further, the scoping memo advised parties that pending receipt and review of the Customer Billing Report, and review of Pacific's stipulation, a hearing would not be necessary.

The Customer Billing Report was to be prepared by Pacific in consultation with Sawaya and the Commission's Telecommunications Division. The scoping memo directed Pacific to determine, and to explain in the Customer Billing Report, the extent of customers being charged fees by more than one interexchange carrier for presubscribed access to interexchange service in a single billing period. The scoping memo also directed that the Customer Billing Report span a period of not less than six billing periods, including a minimum of two billing periods before and after the periods during which the Complainant was erroneously billed. Lastly, Pacific was given an opportunity to propose a method to refund erroneous charges, if any, to customers.

On August 20, 1999, Pacific served its stipulation. Pacific stipulated as follows:

1. The telephone number of the Commission will be added to the "Paying and Understanding Your Bill" section of Pacific's monthly bill to enable a customer to register a complaint with the Commission. (Change to be completed by August 1999.)

2. Sprint's address will be added to the Sprint portion of the bill generated by Pacific. Similarly, addresses for other entities responsible for charges for products and services, for which Pacific bills, will also be added where appropriate. (Changes to be completed by October 1999.)
3. As an interim measure, a message at the end of Pacific's portion of the bill will be added that states an address to send inquiries regarding charges by Pacific. (Interim change to be completed by August 1999.)
4. As a permanent measure, the same address used in paragraph 3 above will be incorporated into the "Paying and Understanding Your Bill" portion of Pacific's monthly bill. (Change is expected in November 1999.)
5. At Sawaya's suggestion, Pacific will add, whenever feasible, a general announcement of the above bill format changes on the first page of its bill coincident with the final permanent change to the billing format which is expected to be completed no later than November 1999.
6. Pacific will submit to the ALJ and parties a Declaration when all the above billing system modifications have been completed.
7. Pacific notes that Sawaya's concern that the presubscribed line charge may not be adequately described and that one large interexchange carrier currently provides a toll free number that consumers can call for a recorded message explaining the charge. Sawaya suggests that other carriers adopt similar consumer disclosure. In response, Pacific stipulated to sending out a letter to all the 60+ Pacific billing customers, asking them to institute a similar practice.

On September 10, 1999, Pacific submitted its first of two Customer Billing Reports. The First Customer Billing Report states that Pacific performed an initial investigation that "revealed what is potentially a serious cramming

problem involving the inappropriate assessment of presubscribed line charges by some carriers. . . . [S]ubsequent investigation confirms that there is indeed a strong probability that some carriers are improperly billing presubscribed line charges to customers." The first Customer Billing Report recommends that the Commission issue an Order Instituting Investigation into cramming or more narrowly focus on improper presubscribed line charges. Pacific states that sufficient evidence exists to suggest that "a problem involving presubscribed line charges exists, and it will take an industry wide effort, under the neutral guidance and control of the Commission, to more definitively quantify the problem and fashion a solution."

On September 14, 1999, the ALJ issued a ruling stating that the September Customer Billing Report does not advance the resolution of Sawaya's complaint because it focused on cramming by carriers other than Pacific. The ALJ ruling stated that rather than focus on the CESAR system problem, Pacific engaged in a generic investigation of cramming of presubscribed line charges by other carriers. The ALJ ruling stressed that a critical unresolved issue is whether other Pacific customers similarly received an unauthorized presubscribed line charge due to Pacific's admitted use of outdated data from Pacific's CESAR system. Thus, the ALJ ruling directed Pacific to submit a second Customer Billing Report focused on cramming, if any, resulting from Pacific's use of outdated information from the CESAR system. The ALJ ruling also noted the discrepancy between Pacific's statement at the PHC that Sawaya's erroneous presubscription line charge was an isolated incident and the conclusion in the first Customer Billing Report that imposition of unauthorized presubscribed line charges by other carriers was a substantial problem.

On November 17, 1999, Pacific filed a second Customer Billing Report. The second Customer Billing Report states that Pacific was unable to determine

why the CESAR database was not updated to reflect that Sawaya had changed from Sprint to AT&T in late 1997. The second Customer Billing Report stated the results of Pacific's analysis of a random sample of 985 residential telephone accounts. Pacific concluded that Sawaya's "situation is an isolated case. Pacific's CESAR system is in fact consistent with other systems, thereby establishing that there is no basis to conclude that other customers are receiving unauthorized charges due to the use of 'not updated' data from the CESAR system."

On November 30, 1999, Sawaya filed comments on Pacific's Stipulation and Customer Billing Reports. On December 1, 1999, Sprint filed comments on Pacific's Stipulation and Customer Billing Reports. On December 8, 1999, replies to comments were filed by Sawaya, Pacific and Sprint. On December 14, 1999, with the prior permission of the presiding officer, Sawaya filed an amendment to his reply. This matter was submitted on December 14, 1999. No hearings were held in this matter.

Position of Sawaya

In his comments, Sawaya states that as of November 29, 1999, the modifications proposed under Items 1-5 of the stipulation have been placed into effect on telephone bills issued for Sawaya's residential service, and to that extent Pacific has timely and satisfactorily met the terms of its Stipulation. However, Sawaya states that some bills Pacific has issued in service territories other than Sawaya's service territory may not satisfy the terms of the stipulation. Sawaya states that he performed a single sampling of a telephone bill issued by Pacific in the San Francisco region. This bill contained charges for services provided by AT&T. However, the bill lacked a mailing address to write concerning the services provided by AT&T. Thus, Sawaya requests some assurance that (1) the proposed modifications contained in the stipulation be made for all of Pacific's

billing and collections customers, and (2) the modifications be maintained in future billing periods.

Sawaya also addresses Item 7 in the stipulation (steps taken to better describe the presubscribed line charge on bills that Pacific presents to customers on behalf of other carriers). Sawaya notes that Pacific's first Customer Billing Report found that out of 3,893 cramming complaints Pacific received in June 1999, 631 or 16% related to complaints regarding the issue of presubscribed line charges. Sawaya contends that the number of complaints would increase if customers could better recognize the incidents of improperly assessed presubscribed line charges. Sawaya notes that Sprint uses the terminology "presubscribed line charge" but that other carriers use different terms to describe the same charge such as "carrier line charge," "line charge," "national access fee," "national access contribution charges," etc.

Sawaya asserts that Pacific's efforts at encouraging voluntary reform by providing a toll free 800 number with recorded information on this charge have not succeeded. Sawaya recommends that the Commission order Pacific to again attempt a consensus with its billing and collection customers for achieving reforms necessary to bring billing language in compliance with Pub. Util. Code § 2890(e)(2)(A).

Sawaya states that in the interest of consumer protection, he concurs with the recommendation contained in the first Customer Billing Report that the Commission should investigate cramming related to the improper assessment of a presubscribed line charge.

Sawaya notes that Pacific's second Customer Billing Report contains a "troubling" reference to one of the 985 customers analyzed in the study. Sawaya states that the study refers to a "discrepancy" but that the second Customer Billing Report furnishes no other details of the discrepancy. Sawaya believes that

both Pacific and the Commission's Telecommunications Division should investigate this discrepancy further.

Position of Pacific

Pacific concludes in its second Customer Billing Report that Sawaya's situation is an isolated case, and that there is no basis to conclude that other customers are receiving unauthorized charges due to the use of outdated data from the CESAR system. Pacific also agrees with Sawaya that a Pacific telephone bill dated November 1999 and containing charges for AT&T did not include a mailing address for AT&T. Pacific states that a "data processing problem associated with AT&T's preformatted billing statements" existed in the October/November 1999 time frame. Pacific contends that the error was corrected prior to December 2, 1999. Pacific also states that a recent³ review of a sampling of Interexchange carrier billing statements printed and mailed by Pacific shows compliance with Pub. Util. Code § 2890.

Pacific also notes that the Public Utilities Code does not mandate a toll-free number for providing information describing a presubscribed line charge. However, Pacific states that it is willing to send out another letter to interexchange carriers for whom it bills explaining this option. However, based on Sprint's comments regarding costs, Pacific believes that other carriers will similarly reject the proposal. Pacific also believes that the Commission should investigate this issue. Pacific concludes that the public would be well served by an industry wide investigation by the Commission into cramming, with particular emphasis on improper carrier line charges.

³ As of December 2, 1999.

Position of Sprint

Sprint states the recently enacted Assembly Bill (AB) 1658 contains amendments to Pub. Util. Code § 2890 that remove the requirement from Pub. Util. Code § 2890(e)(2)(B) that the address of any carrier generating a charge must appear on a customer's telephone bill. Thus, Sprint concludes that the AB 1658 amendments should moot Sawaya's concerns that a consumer's bill must include an address for the underlying carrier for whom Pacific is providing billing services.

Sprint also addresses Sawaya's suggestion to require interexchange carriers to provide a toll-free number with a recorded message regarding presubscribed line charges. Sprint states that it has investigated the costs of implementing such a proposal and that the costs are prohibitive. Sprint also questions the benefits of such a proposal since Sprint already lists a toll-free number on its bills that is staffed by live representatives for the resolution of billing disputes.

Sprint also contends that any Commission requirements of general applicability should not be contemplated in this complaint proceeding. Further, Sprint states that any industry-wide reforms should be addressed in a rulemaking.

Discussion

Pub. Util. § 2890(b)

Sawaya's first allegation is that Pacific violated Pub. Util. Code § 2890(b) by billing for and generating unauthorized charges on Sawaya's January and February 1999 telephone bills. Pub. Util. Code § 2890(b) states that:

“(b) A telephone bill, and a bill for noncommunications-related goods and services that is included in the same envelope as a telephone bill, may only contain charges for products or services, the purchase of which the subscriber has authorized.”

The charge Sawaya complains of is a presubscription line charge. Pacific admits that Sawaya’s January and February 1999 telephone bills contained unauthorized charges for a presubscription line charge. Thus, we conclude that Pacific has twice violated Pub. Util. Code § 2890(b).

In this proceeding, we also asked Pacific to determine whether other Pacific customers received telephone bills that contained an unauthorized presubscription line charge. Pacific has traced the cause of the improper charge to the use of data contained in Pacific’s CESAR database that was not updated. However, Pacific has not explained why the data were not updated.

Despite the lack of explanations, Pacific has expended resources in examining CESAR, and has concluded that Sawaya’s situation is an isolated incident. More importantly, though, Pacific represents that there is no basis to conclude other customers are receiving unauthorized charges due to the use of “not updated” data from the CESAR system.

Lacking a clear explanation why the CESAR system was not updated, the current record also does not support a finding that none of Pacific’s other customers received an erroneous presubscription line charge due to errors in the CESAR system. Thus, although the record does not convince us that Sawaya’s case is a totally isolated incident, there is also no evidence that this glitch affected any significant number of Pacific’s other customers. We will make a narrow finding that the unauthorized presubscription line charge (due to errors in the CESAR system) that appeared on Sawaya’s January and February 1999 telephone bills does not seem indicative of a pattern of similarly-caused unauthorized

charges billed to other Pacific customers. We therefore do not commence our own investigation. However, this finding is without prejudice to any action that may be brought if evidence contravening this finding should appear.

Pub. Util. Code § 2890(e)(2)(B)

Sawaya alleges that Sprint and Pacific were not in compliance with Pub. Util. Code § 2890(e)(2)(B)⁴ by failing to provide the addresses of the billing telephone company and of the service provider for the purpose of presenting and resolving billing disputes.

Sawaya's January and February 1999 telephone bills do not contain a mailing address for Sprint. Thus, Pacific also has admitted that it was not in technical compliance with Pub. Util. Code § 2890(e)(2)(B). Pacific has not provided an excuse for not complying with Pub. Util. Code § 2890(e)(2)(B). However, Pacific took steps to remedy the situation when Sawaya brought the matter to Pacific's attention through this complaint.

Under § 2890(e)(2), Sprint is also responsible for ensuring that its billing address appears on a customer's bill containing charges for Sprint. In this instance, we excuse Sprint from the two violations we have found because, but for the error in Pacific's CESAR data base, the erroneous charges would not have appeared on Sawaya's telephone bill.

Based on the record before us, we conclude that Pacific has twice violated Pub. Util. Code § 2890(e)(2)(B) by failing to cause to be included in Sawaya's January and February 1999 telephone bills information regarding Sprint's

⁴ The acts complained of by Sawaya occurred in 1999. Thus, we apply the law that was in effect in 1999. AB 1658 has modified the requirement of § 2890(e)(2)(B) effective January 1, 2000. Since the acts complained of occurred in 1999, we need not analyze the modified Pub. Util. Code § 2890(e)(2)(B).

address for the purposes of resolving any dispute about charges imposed by Sprint.

Pub. Util. Code § 2890(e)(2)(A)

Sawaya also alleges that Pacific has violated Pub. Util. Code § 2890(e)(2)(A) by failing to provide a clear and intelligible description of the service for which Sprint's presubscribed line charge was imposed. Sawaya proposes that the Commission order the adoption of a toll free number with a recording that describes the presubscribed line charges on a consumer's telephone bill.

Sprint argues that the Commission should not contemplate issuing any requirements of general applicability in this complaint proceeding. We agree, Sawaya's proposed reform that interexchange carriers provide a toll free number for a recording that explains charges is a regulation of general applicability and future effect. A complaint proceeding such as this one, where many of the entities that would be affected by the proposed regulation are not participating generally does not provide the kind of broad input we would like to have if we are to adopt a generally applicable regulation.

However, Sawaya's proposed reforms may be pursued in a rulemaking. Further, recently enacted AB 301 allows the public to petition the Commission to open a rulemaking to adopt a new regulation that has general applicability and future affect. Thus, Sawaya may raise his proposal in a petition to adopt a new regulation pursuant to Pub. Util. Code § 1708.5.

Turning to the circumstances of this complaint, Sawaya concedes that there is no uniformity among Pacific's billing customers in their characterization of the presubscribed line charge. Based on the limited record before us, we find

that Sawaya has not shown a violation by Pacific of Pub. Util. Code § 2890(e)(2)(A).

Pub. Util. Code § 2890(e)(1)

Based on the record before us, we also conclude that Pacific has violated Pub. Util. Code § 2890(e)(1) in November 1999, by billing on behalf of an entity (AT&T) not in compliance with Pub. Util. Code § 2890(e)(2). Although Pacific admits that the omission of AT&T's address is an error that violates Pub. Util. Code § 2890(e)(2)(B), Pacific contends that the Commission should not hold Pacific responsible for this error.

In its comments on the draft decision, Pacific states that the November 1999, error was made on billing statements that are prepared by AT&T and electronically sent to Pacific in final format for printing and enclosure in Pacific's billing envelopes. Further, Pacific states that it does not control the text contained in these billing statements. Thus, under such circumstances, Pacific concludes that it does not have direct responsibility for the contents of the telephone bill. Pacific suggests that under Pub. Util. Code § 2890(e)(2)(B), Pacific has a "monitoring role" and that identifying problems and requesting that corrective action be taken fulfills its role.

Pacific's interpretation is wrong. The plain language of Pub. Util. Code § 2890(e)(1) prohibits Pacific from billing on behalf of a corporation (in this case AT&T) unless that corporation complies with Pub. Util. Code § 2890(e)(2).

Pub. Util. Code § 2890(e)(1) states that "...A billing telephone company may not bill for a person, corporation, or billing agent, unless that person, corporation or billing agent complies with paragraph (2) [§ 2890(e)(2)]."

It is undisputed that in November 1999, AT&T's bill was not in compliance with Pub. Util. Code § 2890(e)(2), thus Pub. Util. Code § 2890(e)(1) prohibited

Pacific from billing on behalf of AT&T. Pacific's excuse that it has a duty to only "request corrective action" after it identifies a problem has no basis in law. A careful reading of Pub. Util. Code § 2890(e)(1) does not support Pacific's interpretation. Pub. Util. Code § 2890(e)(1) does not allow Pacific to bill for an entity unless that entity complies with Pub. Util. Code § 2890(e)(2).

Pacific's attempt to escape its responsibility under Pub. Util. Code § 2890(e)(1) by suggesting that it cannot change the text of bills is irrelevant. Nothing in Pub. Util. Code § 2890(e)(1) imposes a duty upon Pacific to control and change text in bills prepared by other carriers. Pacific is simply prohibited from billing on behalf of carriers that do not comply with Pub. Util. Code § 2890(e)(2). In contrast to the violation of Pub. Util. Code § 2890(b) that Pacific attributes to an unexplained isolated incident, Pacific's wrong interpretation of Pub. Util. Code § 2890(e)(1) lacks a colorable argument in law.

Pub. Util. Code § 2890(e)(1) provides significant consumer protection. We envision that AT&T and other carriers would quickly comply with the requirements of Pub. Util. Code § 2890(e)(2) if Pacific correctly refused, as required by law, to bill its customers on behalf of entities not in compliance with Pub. Util. Code § 2890(e)(2).

Penalty

Under Pub. Util. Code § 2107, the Commission may impose a penalty of not less than \$500 or more than \$20,000 for each violation by Pacific of the Public Utilities Code. We find that Pacific has violated the Public Utilities Code five times.

In this case, we note that Pacific has been responsive to the concerns raised by Sawaya, cooperative with Commission staff, and proactive in suggesting

solutions. In light of these mitigating factors, we impose a penalty of \$500 per offense for a total of \$2,500.

Need for Hearing

This matter was categorized as an adjudicatory proceeding and the instructions to answer indicated that an evidentiary hearing was needed. Pacific was afforded an opportunity for an evidentiary hearing to contest the facts alleged by Sawaya, but instead admitted the allegations. Thus, no factual dispute exist that requires an evidentiary hearing, and we change the prior determination that an evidentiary hearing is required.

Comments on Draft Decision

The draft decision of the ALJ in this matter was mailed to the parties in accordance with Pub. Util. Code § 311(g) and Rule 77.1 of the Rules of Practice and Procedure.

On March 15, 2000, Pacific filed comments on the draft decision. The draft decision is modified to discuss Pacific's concerns regarding the imposition on Pacific of a \$500 penalty for an error that was contained in a November 1999 AT&T billing statement. We decline to adopt Pacific's suggested modifications to the draft decision and instead, based on Pacific's erroneous of interpretation important consumer protection legislation, maintain the penalty imposed.

Findings of Fact

1. Sawaya's January and February 1999 telephone bills issued by Pacific each contain an unauthorized charge labeled a presubscription line charge. These unauthorized charges, which Pacific has refunded to Sawaya, resulted from errors in CESAR system data.

2. Based on Pacific's first and second Customer Billing Reports, the unauthorized presubscription line charges that appeared on Sawaya's January

and February 1999 telephone bills do not seem indicative of a pattern of such unauthorized charges.

3. Sawaya's January and February 1999 telephone bills do not contain a mailing address for Sprint for the purposes of resolving any dispute about charges imposed by Sprint.

4. In November 1999, Pacific billed on behalf of an entity (AT&T) not in compliance with Pub. Util. Code § 2890(e)(2).

5. Pacific has taken action to comply with Pub. Util. Code § 2890.

6. This matter was submitted on December 14, 1999.

Conclusions of Law

1. Pacific committed two violations Pub. Util. Code § 2890(b).

2. Pacific should pay a penalty of \$500 per each violation of Pub. Util. Code § 2890(b) for a total of \$1,000 to the General Fund of the State of California.

3. Pacific committed two violations Pub. Util. Code § 2890(e)(2)(B).

4. Pacific should pay a penalty of \$500 per each violation of Pub. Util. Code § 2890(e)(2)(B) for a total of \$1,000 to the General Fund of the State of California.

5. Sawaya has not shown a violation by Pacific of Pub. Util. Code § 2890(e)(2)(A).

6. The plain language of Pub. Util. Code § 2890(e)(1) prohibits Pacific from billing on behalf of a corporation (in this case AT&T) unless that corporation complies with Pub. Util. Code § 2890(e)(2).

7. Pacific's response that it has a duty to only "request corrective action" after it identifies a bill not in compliance with Pub. Util. Code § 2890(e)(2) has no basis in law.

8. Nothing in Pub. Util. Code § 2890(e)(1) imposes a duty upon Pacific to control and change text in bills prepared by other carriers.

9. Pub. Util. Code § 2890(e)(1) provides significant consumer protection.
10. Pacific's wrong interpretation of Pub. Util. Code § 2890(e)(1) lacks a colorable argument in law.
11. Pacific committed one violation of Pub. Util. Code § 2890(e)(1).
12. Pacific should pay a penalty of \$500 for one violation of Pub. Util. Code § 2890(e)(1) to the General Fund of the State of California.
13. No evidentiary hearing is required in this matter.
14. In the interest of finalizing this case, the order should become effective on the date that it is signed.

O R D E R

IT IS ORDERED that:

1. Pacific Bell (Pacific) comply with Pub. Util. Code §§ 2889 and 2890.
2. Pacific pay within 30 days of the issuance date of this order a penalty of \$2,500 to the General Fund of the State of California for violating Pub. Util. Code §§ 2889 and 2890.
3. This proceeding is closed.

This order is effective today.

Dated April 20, 2000, at San Francisco, California.

LORETTA M. LYNCH
President
HENRY M. DUQUE
JOSIAH L. NEEPER
RICHARD A. BILAS
CARL W. WOOD
Commissioners